IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5954 OF 2004
IN
CRIMINAL APPEAL NO. OF 2004

Shri Natvarlal Gambhirlal Oza ...Applicant.

V/s

Smt. Sarla Bharat Oza
and Ors. ...Respondents.

Mr. C.V. Godwala i/b V.N. Godwala & Co. for the applicant.

Mr. D.P. Adsule for the State.

CORAM: V.M.KANADE,J.
DATE: 21st March, 2005

P.C.:

1. Heard the learned Counsel for the applicant.

2. Applicant is challenging the judgment and order passed by the Trial Court whereby respondent Nos.1 and 2 have been acquitted of the offence punishable under section 406 read with section 34 of the Indian Penal Code.

3. The case of the complainant in brief is that the respondent No.1 is a daughter-in-law and respondent No.2 is father of respondent No.1. The case of the complainant is that a packet of ornaments was given by him to his daughter-in-law for performing Pooja on the

auspicious occasion of Vat Savitri Poonam. However, daughter-in-law did not return the ornaments to him and, therefore, this complaint was filed.

4. The learned Counsel appearing on behalf of the applicant has taken me through the judgment and order of the Trial Court as also the complaint which was filed in the Trial Court. I have also perused the evidence of the complainant in this case.

5. It is submitted by the learned Counsel for the applicant that the Trial Court has not taken into consideration the admission given by respondent No.1 for returning the ornaments which were handed over to her which clearly establishes the case of entrustment and, therefore, the offence was proved beyond the reasonable doubt.

6. I am unable to accept the submission made by the learned Counsel for the applicant. After going through the evidence of the complainant a copy of which has been produced by the learned counsel for the applicant, it can be seen that there is no evidence of entrustment of the property to the respondent No.1. The complainant merely states that the ornaments were handed over to his daughter-in-law. The respondent

No.1 had lodged a complaint against the father-in-law under section 498A of the Indian Penal Code in which she had alleged that the complainant had demanded dowry in the form of ornaments from her. It is no doubt true that the accused No.1 had signed the agreement subsequently and had agreed to return the said property to the complainant. However, the said agreement was by way of settlement of dispute between the parties and it cannot be said that by virtue of the said agreement entrustment of property was proved. Thus no case is made out by the complainant. The Trial Court has given cogent reasons for acquitting the accused. I do not see any reason to interfere with the said finding recorded by the Trial Court after having gone through the evidence of the complainant. Leave is, therefore, refused, Appeal is dismissed.

V.M. KANADE, J.